

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
MICHAEL E. MEGGINSON,

Plaintiff,

-V.-

THE CITY OF NEW YORK, et al.,

Defendants.
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ORDER

22 Civ. 51 (JGK) (GWG)

GABRIEL W. GORENSTEIN, United States Magistrate Judge

On May 19, 2022, the Court extended the deadline for plaintiff to reply to the letter motion of defendant City of New York (“the City”) for a stay of various deadlines in this matter. See Order, filed May 19, 2022 (Docket # 22). Plaintiff has not filed an opposition and thus the motion for a stay is unopposed.

On May 31, 2022, the City filed a letter motion seeking a second extension of time to comply with its obligations under Valentin v. Dinkins, 121 F.3d 72 (2d Cir. 1997), pursuant to the Court’s February 1, 2022 Order (Docket # 7), as the City has not yet obtained the identity of defendant John Doe. See Letter from Mary K. Sherwood, filed May 31, 2022 (Docket # 23).

This Court’s March 2, 2022 Order required the City to file a letter with the Court (1) stating that the City has “provide[d] the identity and service information of” the four individual defendants to plaintiff, (2) “indicating that in the instant Order the Court stated that it would deem the existing amended complaint to substitute the named defendant for John Doe, and (3) stating whether any defendants will waive service.” See Docket # 13. The City partially complied with the March 2 Order on May 19, 2022. See Letter from Mary K. Sherwood, filed May 2, 2022 (Docket # 19) (“May 2 Ltr.”). Waiver of service has been filed as to the City and defendants Kirk Cesar and Cossette Christian. See Docket ## 14, 15. However, the City was unable to identify defendant John Doe.

The Court also notes that the docket does not reflect service or waiver of service as to named defendant “C.O. Roomer.” On February 1, 2022, this Court issued an order of service directing the Clerk of the Court to amend the caption of this action to name as a defendant “C.O. Roomer,” an individual identified in plaintiff’s original complaint. See Order of Service, filed Feb. 1, 2022 (Docket # 7), at 3. The Order of Service directed the Clerk of Court to notify the New York City Department of Correction of the Order of Service and requested that C.O.

Roomer waive service of summons. Id. at 3. On March 9, 2022, a waiver of service form was returned unexecuted because the New York City Department of Correction was unable to locate an employee with the name “Roomer.” (Docket # 16). On May 2, 2022, the City filed a letter identifying Roomer’s correct name and service information as: Correction Officer Roxanne Rhooms, Shield No. 6760, Anna M. Kross Center, 18-18 Hazen Street, East Elmhurst, New York 11370. See May 2 Ltr. at 2. In light of this corrected information, the Clerk of Court is directed to amend the caption of this action to replace defendant “C.O. Roomer” with “Correction Officer Roxanne Rhooms, Shield No. 6760.” The Clerk of Court is also directed to notify the New York City Department of Correction of this order. The Court requests that Roxanne Rhooms waive service of summons.

The City’s unopposed motion to stay this matter for the reasons stated in Docket # 21 is granted with the exception of the City’s obligations under Valentin. The City is ordered to file by July 1, 2022, a letter with the Court identifying the John Doe defendant or providing an explanation as to why the City has been unable to do so. If the John Doe defendant is identified, the City’s letter must fulfill the City’s remaining obligations set forth in this Court’s March 2, 2022 Order, such as indicating that the Court stated that it would deem the existing amended complaint to substitute the named defendant for John Doe and stating whether each individual defendant waives service, if they have not already done so.

On or before August 1, 2022, the City shall file with the Court a status report regarding progress made in the DOC investigation discussed in Docket # 21.

Summary of Court’s Orders

1. The Clerk of Court is directed to amend the caption of this action to replace defendant “C.O. Roomer” with “Correction Officer Roxanne Rhooms, Shield No. 6760.” The Clerk of Court is also directed to notify the New York City Department of Correction of this order. The Court requests that Correction Officer Roxanne Rhooms, Shield No. 6760, waive service of summons.

2. The City’s unopposed motion to stay this matter for the reasons stated in Docket # 21 is granted with the exception of the City’s obligations under Valentin. The City is ordered to file by July 1, 2022, a letter with the Court identifying the John Doe defendant or providing an explanation as to why the City has been unable to do so. If the John Doe defendant is identified, the City’s letter must fulfill the City’s remaining obligations set forth in this Court’s March 2, 2022 Order, such as indicating that the Court stated that it would deem the existing amended complaint to substitute the named defendant for John Doe and stating whether each individual defendant waives service, if they have not already done so.

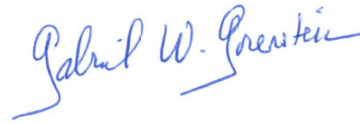
3. On or before August 1, 2022, the City shall file with the Court a status report regarding progress made in the DOC investigation discussed in Docket # 21.

4. In light of the City's update of plaintiff's address as reflected in Docket # 23, the Clerk is directed to change plaintiff's address on the docket sheet to the following address:

Michael Megginson
DIN # 18A3454
Elmira Correctional Facility
New York State Department of Corrections
1879 Davis Street
P.O. Box 500
Elmira, NY 14901-0500

SO ORDERED.

Dated: June 1, 2022
New York, New York



GABRIEL W. GORENSTEIN
United States Magistrate Judge